

CITY OF RICHMOND

AFFIRMATIVE ACTION PLAN

CITY OF RICHMOND

AFFIRMATIVE ACTION PLAN



NOVEMBER 1984

RESOLUTION ADOPTING A CITYWIDE AFFIRMATIVE ACTION PLAN

WHEREAS, the City of Richmond is a community comprised of a variety of racial and ethnic groups; and

WHEREAS, the City of Richmond has an ongoing commitment to promote equal opportunity and redress historical discrimination; and

WHEREAS, the City of Richmond has developed an Affirmative Action Plan setting forth its policies regarding equal opportunity in all aspects of employment and business opportunities in which it is involved; and

WHEREAS, the Affirmative Action Plan will provide the City of Richmond with a comprehensive tool for maximizing the employment opportunities of minority persons, women, and Richmond residents as well as maximizing participation opportunities for minority, women-owned and small local and Richmond businesses; and

WHEREAS, achievement of the Affirmative Action goals will strengthen the economic and social well-being of the City's people and businesses, broaden the City's economic base, and enhance the City's image;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richmond that the City of Richmond Affirmative Action Plan dated November 19, 1984 is hereby adopted by reference and made a part thereof.

BE IT FURTHER RESOLVED that funds in the amount of \$96,000 be appropriated for fiscal year 1984-85 to provide staff support for the Affirmative Action Plan implementation, monitoring, and reporting.

I certify that the foregoing resolution was adopted by the Council of the City of Richmond at a regular meeting held November 19, 1984, by the following vote:

Ayes: Councilmembers Washington, Niccolls, Greco, Livingston, Silva,
McMillan, MacDiarmid, Ziesenhenné and Mayor Corcoran.

Noes: None.

Absent: None.

MARLAN J. HEYDON
Clerk of the City of Richmond


(SEAL)

Approved:

THOMAS J. CORCORAN
Mayor

Approved as to form:

MALCOLM HUNTER
City Attorney



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CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

INTRODUCTORY SECTION

A. OVERALL POLICY STATEMENT

It is the policy of the City of Richmond to:

1. Provide equal opportunity in all aspects of City employment and employment in City-assisted projects.
2. Ensure that there is absolutely no discrimination practiced against any person on grounds of race, color, religion, national origin, ancestry, sex, age, disability or marital status in City employment and employment in City-assisted projects.
3. Maximize the employment opportunities for minority persons, women, Richmond residents, disabled persons and low-income persons in City employment and in City-assisted projects.
4. Provide for maximum feasible participation of minority, small, local and female contractors and suppliers in City contracts and City-assisted project.
5. Provide maximum opportunities for minority persons, Richmond residents and women to establish and operate businesses in City-assisted projects.
6. Provide maximum opportunity for minority, women-owned, and Richmond small businesses to be awarded supply and service contracts, leases and franchises with the City of Richmond.
7. Provide opportunities for minority persons and/or minority business enterprises to participate in the ownership and operation of city-assisted development projects and business ventures.

The City further states that it has a compelling interest in seeking diversity, in redressing historical discrimination against minority persons, women, and businesses owned by such persons, in promoting the economic and social well-being of the City's people and businesses, and in promoting equal opportunity.

To pursue these interests the City adopts and shall implement affirmative action strategies and incentives to (a) increase the number of minority persons, women, Richmond residents, and disabled persons sharing in employment generated in whole or in part by the City of Richmond; and (b) increase the proportion of minority-owned businesses, Richmond resident-owned businesses, Richmond small businesses and local small construction businesses sharing in business opportunities generated in whole or in part by the City of Richmond. The City hereby commits itself to work with developers, businesses, employers, labor unions, construction contractors, service contractors, lessees, and franchises within City-assisted projects to implement the City of Richmond Affirmative Action Plan (herein called the "Plan") and to achieve effective affirmative action results.

B. APPLICABILITY OF THE CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

The City of Richmond Affirmative Action Plan is a comprehensive document divided into six sections which sets forth the affirmative action goals and requirements for employment construction contracts and business opportunities in city-assisted private development projects as defined herein below, and for City of Richmond employment, construction contracts and other business activities.

1. City-Assisted Private Projects

Sections I - IV of the City of Richmond Affirmative Action Plan apply as specified in applicability subsections I.B, II.B, III.B and IV.B to a City of Richmond-assisted private project, activity or development supported in whole or in part by a City contract, lease, land disposition agreement in an assisted project, grant, subsidy, bond issue, loan or loan guarantee, or any other similar form of direct or indirect financial assistance. The term "project" shall refer to and include the entire site of the project and any and all construction, development and commercial service and supply activities within the site or otherwise directly related to the project.

a. Section I - Construction Employment applies to employment on construction contracts of the developer, subdeveloper, owner, contractor or subcontractor in a City-assisted project.

b. Section II - Construction Contracts applies to construction contracting, subcontracting and supply activities by the developer, subdeveloper, owner, or contractor in a City-assisted project.

c. Section III - Permanent Project Employment applies to permanent employment by developer, or subdeveloper, or owner and, in certain cases commercial tenants in a City-assisted project. Goals for Section III do not apply to an employer's workforce transferred or moved from other operations of the employer.

d. Section IV - Business Opportunities applies to the provisions of business and business ownership opportunities by the developer, subdeveloper, owner and certain commercial tenants in a City-assisted project.

2. City of Richmond

Sections I, II, V, and VI apply to City of Richmond construction contracts, purchases of goods and services, leases, new franchises and employment as specified in applicability subsections I. B, II. B, V.B and VI.B.

a. Section I - Construction Employment applies to employment by contractors and subcontractors on City of Richmond construction contracts.

b. Section II - Construction Contracts applies to the award of construction contracts, subcontracts and supply orders by contractors engaged by the City of Richmond.

c. Section V - City of Richmond Purchasing, Leasing, and Franchises applies to the award of purchase orders on contracts for goods and services, leases, and new franchises by the City of Richmond.

d. Section VI - City of Richmond Work Force applies to all aspects of City of Richmond employment, all City employees and applicants for City employment.

3. The City of Richmond Affirmative Action Plan does not apply to other governmental agencies or utilities regulated by the State or Federal government.

4. The relevant definitions, provisions and procedures set forth in this Introductory Section shall apply to each subsequent section of this Plan and shall govern unless modified by specific provisions of a subsequent section.

C. DEFINITIONS

Affirmative Action: is the planned, proactive management outreach program to provide equal opportunity in employment and business for all segments of the community.

Affirmative Action Committee: the City of Richmond Affirmative Action Committee which has general oversight responsibility for the City of Richmond Affirmative Action Plan, Sections I-V of this Plan.

Affirmative Action Plan: is the written document through which management assures that all persons have equal opportunities in recruitment, selection, appointment, promotion, training, discipline, and related management areas. The plan is specifically tailored to the employer's work force, available skills, and contains goals and timetables with specific actions, responsibilities and resources to meet identified needs. It is a results oriented program designed to achieve equal opportunity rather than simply a policy of passive non-discrimination.

Affirmative Action Officer: that management official designated by a project developer, project business, project employer, or contractor to be responsible for affirmative action plan development, implementation, reporting, monitoring and compliance.

Agreement: a legally binding document between two or more parties - see "contract".

Business enterprise: any commercial business enterprise or service contracting firm which rents space, buys land or which otherwise locates within the project, or which services any portion of the project on an ongoing basis.

City: The City of Richmond (a municipal corporation), its employees or agents, including the Housing Authority of the City of Richmond, the Richmond Redevelopment Agency, the Surplus Property Authority of the City of Richmond, the Parking Authority of the City of Richmond and any other similar authorities or agencies of the City of Richmond subsequently established.

City assisted project: see "project"

City Council: the elected Council of the City of Richmond which is also the legislative body for City of Richmond authorities and agencies.

Commercial tenant: any tenant or subtenant of the project developer who operates a business enterprise in the project, and any other person, firm, agency or other entity who rents or engages others to rent commercial space within the project.

Compliance Officer: that person designated by the City, as defined under the "Responsibilities and Enforcement" subsection of this Introductory Section.

Contract: any legally binding written or oral agreement between two or more parties for possession and use of real or personal property or for the provision of goods or services. Contract shall include leases, subleases, subcontracts, franchises, and any amendments. For the purposes of Sections I and II, "contract" shall include all public works and construction contracts for the City and City-assisted projects, including any supply contracts relating thereto. For the purposes of Section V, "contract" shall include all contracts of the City for the provision of goods or services, with the exception of public works and construction contracts and any supply contracts relating thereto.

Contractor: the individual, partnership, corporation or other legal entity entering into a contract with the City, with any developer as defined below, or with any commercial tenant to perform work or provide services which constitute any portion of the project's construction. The term "contractor" shall apply to all prime contractors, general contractors, contractors, subcontractors and suppliers unless otherwise specified. It shall not apply to service contractors as defined separately below.

Developer: any person or persons, corporations, or other legal entity who purchase or lease real property from the City and/or who are responsible for developing and/or managing a project as defined below, including the City of Richmond.

Disabled person: an otherwise qualified individual who:

- a. has a physical or mental impairment which substantially limits one or more of such person's major life activities; or
- b. has a record of having such impairment;
- c. is regarded as having such impairment.

Equal Employment Investigative Officer (EEIO): the City of Richmond Personnel Director, whose responsibility includes receiving and investigating complaints of discrimination relating to City employment.

Equity Participation: a percentage of the ownership interest in a development or business venture which is organized as a joint venture, partnership or corporation whose stock is not publicly traded through a stock exchange; or a percentage of the ownership interest in a development to a subdeveloper.

Employee: any person employed by and rendering services to any employer within the project, excepting immediate family members. ("Immediate family" is defined as: grandparent; parent; spouse; child; grandchild; brother or brother-in-law; sister or sister-in-law; niece; or nephew.)

Employer: any commercial tenant; property owner, or service contractor having employees within the project, including any developer team personnel located on-site. ("Developer team" shall consist of the developer and any professional firms engaged by the developer to work on any aspects of the planning and management of the project.)

Female-owned firm/contractor: a firm or corporation at least 51% of which is female-owned and controlled. The criteria for female ownership and control shall be the same as required for "minority business" (below).

Franchise: a privilege or immunity of public nature, which cannot be legally exercised without legislative grant. The city's franchises are generally of an exclusive nature such as those for garbage service, ambulance service, cable television, utilities, etc. Franchises that are regulated by State or Federal government are excluded.

Housing Authority: the Housing Authority of the City of Richmond.

Labor market availability:

a. Richmond Labor Market -- Includes those persons who are working or actively seeking work and whose principal place of residence is within the City boundaries of Richmond.

b. Contra Costa County Labor Market -- Includes those persons who are working or actively seeking work and whose principal place of residence is in Contra Costa County.

c. San Francisco-Oakland SMSA -- Includes those persons who are working or actively looking for work and whose principal place of residence is in the Standard Metropolitan Statistical Area, which includes Contra Costa, Alameda, San Francisco, Marin, and San Mateo Counties.

Local business/contractor: any business/contractor, or subcontractor having permanent business residency in Richmond, San Pablo, El Cerrito or any unincorporated portions of Contra Costa County directly adjacent to the City of Richmond.

Minority/minority persons: persons in the following racial or ethnic groups shall be considered as minority persons for purposes of the Richmond Affirmative Action Plan:

- a. Black: All persons having origins in any of the Black racial groups.
- b. Hispanic: All persons of Mexican, Puerto Rican, Cuban, Central or South American origin.
- c. Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Pacific Islands or the Indian Subcontinent. For example: China, Japan, Korea, Philippine Islands and Samoa. The Indian Subcontinent takes in the countries of India, Pakistan, Bangladesh, Nepal, Sikkim, Sri Lanka and Bhutan.
- d. Native American: All persons having origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliations.

Minority Business/contractor: a business at least 51% of which is owned and controlled by a minority person or persons (as defined above) and which otherwise meets the Small Business Act, Section 3 definition of a small business. The minority ownership interests must be real and continuing and not created solely to meet the minority business or minority contractor goals and other provisions of the Plan. The minority owner must possess and exercise control over management, and possess an interest in capital and earnings commensurate with the claimed minority ownership. The minority owner must:

- a. Participate in the day-to-day operation of the business; and
- b. Be an officer, director and employee of the minority business firms; and
- c. Be authorized to sign on all bank accounts, to draw against letters of credit, and to secure surety bonds and insurance; and
- d. Be involved in deciding which ventures (or, in the case of minority contractors, which jobs) the firm will pursue, and in preparing or supervising the firm's bids, if any and contracts; and
- e. Have control over the setting of salaries and the distribution of bonuses; and
- f. Have control over any profit sharing, pension or stock option plans.

The minority group member or members owning the business must be a citizen or citizens of the United States. Offshore, Third World nationals, even if incorporated in the United States, such as Sony Corporation of America, do not qualify as minority businesses.

Minority owned firm: a minority business as defined above.

New worker: for purposes of this Plan a worker will be considered new if the circumstances of his/her employment represent a substantially new employment situation for the worker in question, for example:

- a) Employee is new to the specific craft or other job category.
- b) Employee is, as a result of his or her current employment in the project, newly entering the related union.
- c) Employee is new to the construction industry.

One-Stop Center: a program operated by the Richmond Redevelopment Agency to:

- a. provide assistance to local, minority, and female individuals and firms seeking employment, contracting and business opportunities, and
- b. provide technical assistance to project developers, contractors, businesses, and employers to enable them to comply with Affirmative Action requirements of the Plan.

Permanent employment: any job in the project of an ongoing nature, i.e., as distinguished from construction phase employment.

Personnel Board: the City of Richmond Personnel Board which has oversight responsibility for Section VI of this Plan.

Population parity: workforce representation equal to the percentage of an affected or chosen group in the population area under consideration.

Prime contractor: any person, firm or corporation contracting with the developer or City and designated by the developer or City as the prime or general contractor for any specific phase or phases of the project construction. Prime Contractor shall include the developer if developer acts as its own Prime Contractor.

Project: any City of Richmond assisted project, activity or development supported in whole or in part by a City contract, lease, land disposition agreement, grant, subsidy, bond issue, loan, loan guarantee, or any other similar form of direct or indirect financial assistance. The term "project" shall refer to and include the entire site of the project and any and all construction, development and commercial service and supply activities within the site or otherwise directly related to the project except as otherwise provided in Sections I and IV the Plan. (See "Applicability," Section B., Introductory Section.)

Recipient: the recipient of a contract for goods or services, lease, or franchise with the City of Richmond, excluding public works or construction contracts and any supply contracts relating thereto.

Redevelopment Agency: City of Richmond Redevelopment Agency.

Resident: a person domiciled (i.e., having a fixed permanent and principal home for legal purposes) within the corporate limits of the City of Richmond.

Richmond business: any business operation with permanent business residency within the corporate limits of the City of Richmond. (Includes businesses located in Richmond whose owners live outside Richmond.)

Service contract: a contract or subcontract, and any amendments thereto, to provide a service or services to the City or within a project, such as janitorial, landscape maintenance, waste disposal, maintenance, professional or security services, as distinct from construction and public works contracts and related supply contracts.

Service contractor: any person, firm or corporation contracting to provide a service or services to the City or within a project, such as janitorial, landscape maintenance, waste disposal, maintenance, professional or security services, as distinct from construction and public works contractors and related suppliers.

Small business contractor: for general engineering or general building contractors-average annual gross revenue of \$5,000,000 or less over the past three years; for a specialty contractors-average annual gross revenues of \$2,500,000 or less over the past three years; and for all other contracting firms, businesses, suppliers or vendors-average monthly payroll of 15 or less persons excluding the owner(s). A concern shall not qualify as a small business contractor if it is an affiliate of another concern that would not be considered a small business contractor or their affiliation would not be considered a small business contractor.

Subcontractor: any individual, partnership, corporation or other legal entity entering into a contract with a higher tier of contractor or subcontractor to perform a portion of the work in the project.

Subdeveloper: any firm or individual contracting with the developer or City to perform the developer function in any given phase or portion of the project; shall include any tenant who subleases space or land.

Supplier: any person or persons, firm partnership, corporation or any combination thereof, who submits a bid or enters into a contract for the supplying of goods, materials, equipment, furnishings or supplies.

Utilization analysis: a mathematical analysis of the minority and female composition of the work force compared to the minority and female composition of the subject population or availability in the labor market.

West Contra Costa County: That portion of Contra Costa County which is delineated in the map attached to this Introductory Section of the Plan (Appendix A).

Woman-Owned Business Contractor: same as "Female-owned firm/contractor."

D. RESPONSIBILITIES AND ENFORCEMENT

1. Responsibilities of the City of Richmond

The City of Richmond shall have ultimate responsibility for assuring implementation and enforcement of all sections and provisions of this Plan.

a. Compliance Officer (Sections I - V)

- (1) The Compliance Officer shall have the responsibility to monitor, investigate, make findings and, where appropriate, recommend action or take action to resolve any matters of non-compliance with the Plan. The Compliance Officer shall be the City Human Relations Officer.
- (2) The Compliance Officer shall provide staff support to the Affirmative Action Committee.
- (3) The Compliance Officer shall receive and review status and compliance reports as well as Affirmative Action Plans from project developers and recipients of a City contract, lease or franchise.
- (4) The Compliance Officer or his/her staff shall have the right to conduct such field inspections, review such documents, and interview such individual developers, contractors, employers, commercial tenants, recipients and others as necessary to verify the accuracy of reports and to otherwise monitor compliance with the provisions of the Plan.
- (5) The Compliance Officer shall make findings of non-compliance as warranted and notify the City Manager, recommending appropriate remedies.
- (6) The Compliance Officer shall have any other such duties as are specified in Sections I - V.

b. City Manager

- (1) The City Manager shall promulgate regulations, procedures and guidelines necessary to implement or clarify any provisions of this Affirmative Action Plan.
- (2) The City Manager shall review periodic monitoring and compliance reports submitted by the Compliance Officer.
- (3) The City Manager shall make the final determination as to remedy in instances of non-compliance and communicate the findings to the party(ies) in writing.
- (4) The City Manager shall make periodic reports to the City Council on the Affirmative Action Plan.

c. City Departments

(1) City Departments shall communicate the Affirmative Action Plan and requirements of applicable Sections to:

(a) contractors and subcontractors during pre-bid conferences and/or as part of the bid specifications.

(b) developers during project negotiation phase.

(c) recipients as part of the request for proposals or during the process of informal solicitation for bids.

(2) City Departments shall include relevant sections of the Plan as well as the introductory portion in applicable leases, contracts or agreements with a developer, contractor, employer, commercial tenant or recipient. Affirmative Action requirements and penalties for non-compliance shall be clearly delineated.

(3) City Departments shall coordinate their efforts in (1) and (2) above with the Compliance Officer and One Stop Center. The Compliance Officer shall receive prompt notice of the compliance date (paragraph D 10 of this section). City Departments shall notify any developer, contractor or employer of the availability of the One Stop Center to provide technical services.

2. Responsibilities of Commercial Tenants, Employers, Contractors and Recipients

a. Every commercial tenant, employer and contractor operating in a project and every recipient of a City contract for goods and services, lease or franchise shall be responsible for adopting and achieving the affirmative action goals and meeting the requirements of the relevant plan section(s).

b. Any commercial tenant, employer, contractor or recipient who fails to achieve the goals must establish that it has complied with the specific affirmative action steps and all other applicable requirements of this Plan in order not to be found in non-compliance.

c. Any commercial tenant, employer, contractor or recipient who fails to achieve the goals and to carry out the specific affirmative action steps and all other requirements, will be found in non-compliance.

d. Every commercial tenant, employer and contractor operating in a project shall provide full cooperation to the developer, where applicable, and to the City, and every recipient shall provide full cooperation to the City to facilitate their monitoring and compliance activity, including making available such relevant documents as the developer and/or the City may request.

3. Responsibilities of Developers

- a. Each developer shall have responsibility for initial monitoring and compliance with the provisions of relevant sections of the Plan, including obtaining and analyzing reports, conducting preliminary investigations to determine compliance or non-compliance with the Plan, and taking any other action which may be appropriate to assure that all project employers, commercial tenants and contractors comply with these provisions.
- b. Each developer shall be responsible for meeting all of its affirmative action obligations as specified in each relevant section of the Plan. The developer shall be given an opportunity to demonstrate that it has made a "good faith effort", as defined in each section, to ensure that the goals are met, and to assure compliance with the requirements of the Plan. Where the City finds that the developer has failed to take appropriate action to assure compliance with the Plan, the City may find the developer in non-compliance and take appropriate action.
- c. Each developer shall have the right to make such field inspections, to review such documents, monitor and interview such individual commercial tenants, employers and contractor as necessary, to verify the accuracy of reports and to otherwise monitor compliance with these provisions.
- d. Each developer shall designate an Affirmative Action Officer who shall have the primary responsibility for ensuring that the developer is meeting its responsibilities as outlined in each relevant section of the Plan.

4. Responsibilities of the Affirmative Action Committee

The Affirmative Action Committee (AAC) shall be an advisory body to the City Council in the Council's various capacities, and shall have oversight responsibility concerning implementation of the City of Richmond Affirmative Action Plan, Sections I - V. Its responsibilities shall include, but not be limited to, the following:

- a. Hold public meetings as part of its general oversight responsibility.
- b. Receive and consider investigative, statistical and other reports which the City Manager may submit to the AAC and all pertinent documents which the City Manager and the AAC may deem necessary in order for the AAC to carry out its responsibilities.
- c. Consider appeals which may be filed with the City under paragraph C.6 infra. Except as provided in subparagraph C.6.d., the AAC shall not participate in any investigation of non-compliance with the Plan.
- d. Make recommendations to the City Council regarding the foregoing matters as well as any other matters concerning needed change, updates, or alternatives to the Plan as well as interpretation of provisions.
- e. Hear complaints regarding provisions of the Plan and affirmative action compliance therewith other than individual discrimination complaints as referred to in paragraph C.5.

5. Procedure for Individual Discrimination Complaints

Individual complaints alleging discrimination against one or more individuals, developers, commercial tenants, employers, contractors or recipients shall not be processed by the City, but may be forwarded or otherwise referred to the California Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, or other appropriate state or federal agency which investigates complaints of discrimination. Information relating to the individual complaint(s), however, may be used as part of an investigation into the general compliance with the affirmative action provisions of Sections I - V of this Plan.

6. Compliance Procedures

a. Investigations made in accordance with subparagraph 1 a. may be initiated at the direction of the City Manager; at the request of the AAC; or the discretion of the Compliance Officer. The investigations and all materials related and developed thereto, including any informal resolution, shall be confidential, except in the case of an appeal.

b. The Compliance Officer shall conduct investigations, and upon completion of an investigation shall notify the City Manager of his/her findings and recommendations.

c. Where the Compliance Officer finds any party(ies) to be in non-compliance that finding and recommendation for remedies shall be forwarded to the City Manager. The City Manager shall review the findings and recommendations of the Compliance Officer and any other available information and within 10 working days notify the party(ies) in writing of the finding and shall specify remedial relief. The City Manager's written notification shall include the following statement:

"Any party(ies) in non-compliance shall have 10 working days after mailing of the written notification of non-compliance to file a written appeal with the Affirmative Action Committee via the City Clerk. If no appeal is filed within the time limit, the finding of non-compliance and specified remedial action shall be treated as final by the City."

d. Any appeal to the AAC shall be deemed to be filed when delivered to the Clerk of the City of Richmond. The AAC shall consider the appeal at the next regularly scheduled or specially called meeting unless otherwise agreed in writing by the parties, but no sooner than five working days. Such meeting shall be open to the public and shall consist of oral and/or written presentation by the City and the party(ies) found in non-compliance and other persons who, in the sole discretion of the AAC, may substantially contribute to the proceeding. All oral testimony shall be given under oath and subject to perjury laws. In addition to oral argument, the AAC will consider the report made by the Compliance Officer as well as any other documents submitted by any party(ies) as part of their oral and/or written presentation. A complete record of the public meeting shall be maintained and shall include a tape recording of the meeting, which shall be available to the City Council and citizens on written request.

e. If the AAC finds in favor of the City Manager the decision is final. If the AAC findings and recommendation differ from the City Manager, the item may be appealed to the City Council for final decision. The City Clerk shall fix a time and place for a public hearing by the City Council on the appeal, and shall give at least 5 days' written notice of the time and place set for the public hearing to the appellant(s).

f. The City Council shall, during a public hearing, consider the findings and recommendations of the AAC and the City Manager and any other relevant evidence elicited during the public hearing, and shall render its decision.

g. The decision of the City Council shall be final. Where a party is found in non-compliance, the decision shall specify the appropriate remedies.

7. Inclusion Clause

The Affirmative Action Plan shall be included in every applicable City of Richmond lease, contract or agreement as a binding obligation. Violation of the provisions of the Plan by any developer, contractor, employer, commercial tenant or recipient, shall be considered a breach of the specific lease, contract or agreement.

8. Compliance/Non-compliance

If a developer, contractor, employer, commercial tenant, or recipient meets and maintains the plan goals outlined in each applicable section, they will be considered to have met the requirements of the section and achieved compliance. A developer, contractor, employer, commercial tenant or recipient who fails to meet the affirmative action goals but who can demonstrate to the satisfaction of the City that it has made a comprehensive "good faith effort" as defined in each section, shall not be found to be in non-compliance with that section. Developers, contractors, employers, commercial tenants or recipients who consistently fail to meet the goals of applicable sections of the Plan and the City determines have not made a "good faith effort" to achieve compliance shall be found to be in non-compliance and subject to appropriate penalties and/or sanctions.

9. Remedies

Where any party(ies) is (are) found in non-compliance with respect to a specific contract, lease, or agreement remedial relief may be obtained and appropriate sanctions imposed which may include, but are not limited to: termination or withdrawal of that specific contract, lease or agreement; withholding of progress payments until compliance; fines not to exceed \$1,000.00 per day for each day a party is found to be in non-compliance; and any other legal or equitable remedies as may be available. In addition, the developer, contractor, employer, commercial tenant, or recipient may be declared ineligible for further City agreements, contracts or leases. Every developer, contractor, employer, commercial tenant and recipient shall abide by a final decision of either the City Manager or the City Council.

10. Compliance Date

Compliance shall be measured from the initial day of signing of any lease, contract, or agreement (as applicable) relating to a project.

11. Severability. In the event that any section, subsection, provision or other portion of the Plan is found to be unconstitutional or otherwise unenforceable by law, all remaining sections, subsections and provisions shall remain valid and applicable.

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L E

MORAGA
Danville

CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

SECTION I. CONSTRUCTION EMPLOYMENT

A. POLICY STATEMENT

1. It is the policy of the City of Richmond to provide equal opportunity in all phases of project construction to assure that there is absolutely no discrimination by project developers, contractors, subcontractors or suppliers against any person on the grounds of race, color, religion, national origin, ancestry, sex, age, disability or marital status and to maximize employment opportunities for minority persons, residents, women, disabled and low income persons in such construction.
2. The City further states that it has a compelling interest in seeking diversity, in redressing historical employment discrimination against minority persons and women and in promoting equal opportunity through affirmative action strategies and incentives to increase the number of minority persons, women and Richmond residents employed in project construction.

B. APPLICABILITY

Section I. Construction Employment shall apply to all construction contracts in projects as defined in the Introductory Section definition of "project", including those owned or assisted by the City of Richmond, but not including other governmental agencies or utilities regulated by the State or Federal government.

C. GOALS

Every developer, contractor and subcontractor participating in the project shall adopt and attain the following goals:

1. For the period 1984-1986, every contractor shall hire a minority construction workforce of 35%, on a craft-by craft basis.
2. Beginning in 1987, every contractor shall hire a minority construction workforce reflecting parity with the minority West Contra Costa County population on a craft-by-craft basis.

Note: In meeting the above goals, every contractor shall endeavor to maintain a minority workforce which reflects proportionately the current racial and ethnic profile of the West Contra Costa County population, according to the 1980 Census:

(TBA)

3. Every contractor shall hire female construction workers at least at the federally mandated level. The current federal goal is 6.9%.

4. Every contractor shall hire and employ at least fifty percent (50%) of its workforce from among bonafide residents of the City of Richmond.

5. Every contractor whose affirmative action plan shows an expected or existing minority employment rate which is less than parity with the minority West Contra Costa County population, or a female employment rate less than the applicable federally mandated goal for females, shall agree to hire one (1) apprentice or new worker for every four (4) journeymen. At least fifty percent (50%) of the apprentices or new workers hired by the contractor shall be minority or female until such time as it has met the overall goals set forth in this program. The contractor further agrees that 50% of all apprentices or new workers shall be Richmond residents.

6. The developer and each contractor also agree to make every effort to hire and employ disabled persons.

Notes:

- a. The above goals shall be measured on the basis of person-hours worked.
- b. Percentages shall be substantially uniform throughout the duration of the contract.
- c. The transfer of minority, resident or female employees or trainees from employer to employer or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of these provisions.
- d. The above-stated goals are not intended and should not be construed as fixed, numerical quotas. They are designed to reflect the intent of the City to promote more equitable employment of minorities, women and Richmond residents.

D. AFFIRMATIVE ACTION REQUIREMENTS

It is expressly understood and agreed by every contractor that the policy goals, affirmative action requirements and reporting and monitoring procedures outlined in this section shall constitute the minimum affirmative action program to be carried out by every contractor.

It is expressly understood and agreed by each contractor that it shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, sex, age, disability or marital status.

All contractors performing work under contracts subject to the provisions of this section hereby agree to carry out their affirmative action obligations and to inform their subcontractors of their respective obligations under the terms and requirements of this section.

The prime or general contractor shall be responsible for the affirmative action compliance and performance of all its subcontractors on a continuing basis.

The contractor's workforce shall include the workforce of its subcontractors for the purposes of the goals and requirements.

1. Requirements of Contractors

Each contractor shall observe and implement the following requirements:

a. Affirmative Action Plan

If the amount of the prime contract or of any subcontract is \$100,000 or more, then the prime contractor and/or subcontractor shall be required to submit to the developer, prior to the award of the contract, a written affirmative action plan which outlines the contractor's employment goals and describes how the contractor will meet the goals and satisfactorily comply with all the requirements and obligations of this section. The Contractor's written plan shall include all of the "good faith effort" steps listed under paragraph (e) below, as well as any additional steps the contractor intends to use to meet the employment goals and to increase minority resident and female worker utilization.

b. Implementation: Affirmative Action Officer

Each contractor shall designate a management official as the Affirmative Action Officer who will assume the responsibility for implementation of the employment goals and all the requirements, terms and conditions set forth in this section.

c. Responsibility for Subcontractors

Each contractor shall be responsible for the affirmative action compliance and performance of all of its subcontractors. The contractor's workforce shall include the workforce of its subcontractors for the purposes of the goals and requirements of this section.

d. Plan Compliance

The contractor shall not be found in non-compliance solely on account of its failure to meet the above employment goals. The contractor shall be given the opportunity to demonstrate that it has made a good faith effort, as defined in paragraph (e) to attain the goals.

e. Good Faith Effort

Each contractor shall set forth in its affirmative action plan, as required in subparagraph (D)(1)(a) above, specific steps directed at meeting the employment goals of this section and increasing minority, resident and female worker utilization. These steps must be at least

as extensive and as specific as the steps listed below, which constitute the minimum ingredients of a contractor's "good faith effort" to attain the employment goals of this section. The contractor shall also maintain complete documentation of all actions taken, correspondence, etc., in relation to carrying out these steps.

(1) The contractor shall notify community organizations and the One-Stop Center that the contractor has employment opportunities available and shall maintain records of the organizations' response.

(2) The contractor shall maintain a file on the names and addresses of each minority worker referred; each resident referred; and each female worker referred. A separate file shall be maintained for each of the categories: minority persons, residents and women. In cases where the same person belongs in two or more of these categories, the name and address of that person shall be listed in each file to which he/she belongs.

The file shall indicate what action was taken with respect to each such referred worker and, if the worker was not employed, the reasons therefor. If such worker was not sent to a union hiring hall for referral, the contractor's file shall document this and the reasons therefor. Where such person was rejected as "not qualified," the specific qualifications lacking shall be noted.

(3) The contractor shall promptly notify the City and the developer, where applicable, when the union or unions with whom the contractor has a collective bargaining agreement has not referred to the contractor a minority or a female worker specifically requested by the contractor. The contractor shall also notify the City and the developer promptly when it has other information that the union referral process has impeded the contractor in its efforts to meet its goals.

(4) The contractor shall participate in minority, resident and female employment, recruitment and training programs in the area, especially those funded by the Department of Labor. Contractor shall specifically solicit assistance of those relevant organizations listed with the City "One-Stop Center" to aid in recruitment and training of minority and female employees as may be appropriate to meet its goals under this section.

(5) The contractor shall disseminate externally its equal employment opportunity and affirmative action policy by discussing it with all recruitment sources; by advertising in news media, specifically including minority, Richmond and women's media; and by notifying and discussing it with all subcontractors and suppliers.

(6) The contractor shall make continuing written and oral recruitment efforts directed at all minority and women's organizations; schools with minority students; minority and women's recruitment organizations; and minority and women's training organizations within the contractor's recruitment area.

(7) The contractor shall make specific efforts to encourage present minority, resident and female employees to recruit their friends and relatives.

(8) The contractor shall ensure that its employees selection procedures do not have a discriminatory impact and shall validate all personnel specifications, selection requirements and tests in accordance with the Federal Uniform Guidelines on Employee Selection Procedures.

(9) The contractor shall make every effort to promote after-school, summer and vacation employment among minority and female youth.

(10) The contractor, to the extent feasible, shall develop on-the-job training opportunities and participate and assist in any association or employer-group training program relevant to the contractor's employee needs.

(11) The contractor shall continually review and evaluate all minority, resident and female personnel for promotional opportunities and shall encourage minority, resident and female employees to seek such opportunities.

(12) The contractor shall make sure that seniority practices and job classifications do not have an unlawful discriminatory effect.

(13) The contractor shall make certain that all facilities and company activities are non-segregated, except where otherwise provided for by law.

(14) The contractor shall continually monitor all personnel activities to ensure that its equal employment opportunity policy and affirmative action plan are being carried out.

f. Employment of Apprentices and New Workers

For purposes of complying with paragraph I.C(5), each contractor shall comply with the following procedures for hiring of apprentices or new workers in all phases and aspects of the project construction, in dealing with labor organizations and in hiring their workforce.

(1) Where less than four (4) journeymen in any craft are employed, the ratio of 1 to 4 will be satisfied by employing one apprentice or new worker in any of the crafts for every four (4) journeymen

in all crafts. Selection of the craft(s) to which a minority or female apprentice or new worker will be assigned will be the craft(s) with the lowest percentage of minority or female apprentices in the County.

(2) The starting wage or level in any craft will be comparable to levels determined by applicable Federal or State regulations.

(3)) The contractor shall provide the normal field training and support geared toward the attainment of journey level status or its equivalent for the new worker.

2. Requirements of the Developer

The following requirements shall constitute the minimum ingredients of the developer's "good faith effort" to ensure that all contractors meet the employment goals and requirements of this section.

a. Implementation Plan

The developer shall submit to the City, thirty (30) days prior to signing an agreement for the project, a detailed plan for carrying out its responsibilities to ensure that the developer and all contractors meet the employment goals and requirements of this section.

b. Assistance to Contractors

The developer shall assist contractors in meeting the employment goals and requirements by making available relevant resources and programs as mutually agreed upon and developed by the City and the developer, such as a contractor's assistance center, pre-apprenticeship construction skills training programs, etc.

E. MONITORING AND REPORTING PROCEDURES

1. Monitoring and Reporting Obligations of Contractor

a. Monitoring

Each contractor shall monitor the affirmative action performance of all its subcontractors on a continuing basis.

b. Reporting

(1) Each contractor shall, throughout the construction contract, maintain cumulative workforce records indicating the participation of minority, resident, female and apprentice or new workers on a craft-by-craft basis, expressed in person-hours; and shall make these records available to the developer and City upon request at any time during the construction contract.

(2) Each contractor shall submit certified weekly payroll records to the developer and to the City Compliance Officer and shall submit each weekly record within five (5) working days of the end date for each pay period. These records shall indicate the total number and percentages of person-hours worked on a craft-by-craft basis and identified as to minority or non-minority, home address of each employee, male or female and apprentice, new worker or journeyman status.

2. Monitoring and Reporting Obligations of Developer

a. Monitoring

The developer shall monitor the affirmative action performance of all contractors and subcontractors on a continuing basis by conducting on-site visits and interviews and by reviewing the payroll records and other relevant documents of contractors and subcontractors.

b. Reporting

(1) The developer shall submit to the City Compliance Officer a monthly written workforce summary report for each construction contract within the first ten (10) days of each month. Each report shall indicate the total cumulative number and percentages of person-hours on a craft-by-craft basis identified as to minority/non-minority, resident/non-resident, male/female and apprentice/journeyman/new worker status. In addition, the City may request workforce reports on a more frequent basis as it deems necessary.

(2) The developer shall report promptly to the Compliance Officer any apparent instances of non-compliance on the part of any contractor(s), actions taken by the developer to assure compliance and any significant problems relating to carrying out the intent and specific goals and requirements of this section.

d. Documentation

The developer shall maintain a complete documentation of all its activities taken to ensure that contractors meet the employment goals and requirements of this section.

CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

SECTION II. CONSTRUCTION CONTRACTS

A. POLICY STATEMENT

1. It is the policy of the City of Richmond to provide equal opportunity in all phases of project construction, to assure that there is absolutely no discrimination by project developers, contractors, subcontractors or suppliers against any person or business on the grounds of race, color, religion, national origin, ancestry, sex, age, disability or marital status, and to provide maximum feasible participation of minority, small, local and female contractors and suppliers in project construction.
2. The City further states that it has a compelling interest in seeking diversity, in redressing the historical discrimination against minority contractors and suppliers and in promoting equal opportunity through affirmative action strategies and incentives to increase the number of minority, small, local and female contractors and suppliers participating in project construction.

B. APPLICABILITY

Section II - Construction Contracts shall apply to all construction contracts in projects as defined in the Introductory Section definition of "project," including those owned or assisted by the City of Richmond, but not including other governmental agencies and utilities regulated by the State or Federal government.

C. GOALS

The developer and every prime contractor or general contractor shall adopt and attain the following goals for participation by minority, small, local and female contractors or suppliers:

1. Twenty percent (20%) of the total dollar amount of each prime contract shall be awarded to minority contractors and/or suppliers.

Note: In meeting Goal No. 1, the prime contractor shall give first consideration to and negotiate with minority contractors or suppliers located in Richmond.

2. Fifteen percent (15%) of the total dollar amount of each prime contract shall be awarded to local small contractors and/or suppliers.

3. The developer and each contractor also agrees to make every effort to attract and give opportunity to female contractors and/or suppliers to participate in project construction contracts.

4. Fifty percent (50%) of total dollar amount of the hauling, freight, excavated or fill material including dirt, sand, rock and asphalt, but excluding wet concrete, shall be awarded to local small trucking businesses or owner operators of which at least sixty percent (60%) shall be local minority trucking businesses or owner operators.

Notes:

- a. In subcontracts and/or contracts for supplies where bids are involved, and for the purposes of meeting goals #1, 2 and 3 a five percent (5%) discount shall be extended to bids made by small Richmond, minority and female contractors or suppliers as part of the selection process. If the lowest small Richmond, minority or female contractor bid is within 5% of the otherwise lowest bid, then the lowest small Richmond, minority or female bidder shall be offered the contract at the otherwise lowest bid price. Small contractor as used in this section II. C.1. shall be as defined in the Introductory Section of this Plan.
- b. Goals No. 1, 2 & 3 shall be subject to the following exception: In cases where the developer can demonstrate to the City Compliance Officer's satisfaction that there is limited or no capacity among available minority, local small and female contractors and suppliers to perform the work of a given contract, the City may modify the goal statement for that contract. The request for such determination shall be in writing accompanied by a written analysis supporting the request and shall be submitted to the City at least ten (10) working days prior to formal invitation to bid. Modifications of any goal may be made by the City and its determination will be final. Where modification of goals No. 1 & 2 is granted, forty percent (40%) of that portion of the contract for which minority and local small contractors are qualified to perform, as determined by the City, shall be awarded to minority and local small contractors and suppliers.
- b. The percentage amount of awards to minority contractors or suppliers also qualifying as small local contractors or suppliers may be double counted (i.e., may be applied toward the achievement of Goals 1 and 2). The percentage amount of awards to small, local minority trucking businesses or owner-operators may be double counted (i.e., may be applied toward the achievement of Goals 1, 2 and 4, as applicable).
- c. In meeting the minority and local small contractor participation goal, the prime contractor and other contractors and suppliers may utilize the following methods, or a combination thereof, as long as the sum dollar amount of minority or local small participation from all sources for each prime contract equals or exceeds the goal:
 - 1) Joint venture at prime contractor level;
 - 2) Joint venture at subcontractor level;
 - 3) Set-aside of a designated portion of the contract for minority or local small contractors;
 - 4) Subcontract to minority or local small firms;
 - 5) Utilization of minority or local small suppliers by both prime contractor and subcontractors.

- d. The minority or local small ownership in a joint venture must be at least 30% to count toward fulfilling the minority or local small contractor goal. To determine how much of a joint venture contract shall count toward the goal, the total dollar amount of the contract shall be multiplied by the percentage of minority or local small ownership in the joint venture. Example: In the case of a 60% majority/40% minority owned joint venture, 40% of the dollar amount of the joint venture contract may count towards the minority contractor goal.
- e. When a minority or local small contractor subcontracts back to, leases from, or is backcharged by its prime contractor in an aggregate amount that exceeds 15% of the minority or local small contractor's subcontract, none of the amount retained will be credited toward meeting the goal.
- f. The participating minority or local small contractors or suppliers must perform a commercially useful function (i.e., must be responsible for execution of a distinct element of work or supply activity, carry out its responsibility by actually performing, managing and supervising the work or supply activity and not act as a mere conduit).
- g. Credit for a minority or local small supplier of materials or construction related services is limited to twenty percent (20%) of the amount to be paid to said supplier unless the supplier manufactures or substantially alters the goods.
- h. A listed minority or local small subcontractor may subcontract portions of its work or purchase materials from non-minority or non-local small firms if such subcontracting or purchasing would be considered reasonable and normal in the trade or type of work to be performed. No second-tier subcontracting which would demonstrate an attempt to subvert or evade the intent of this section shall be permitted.
- i. Nothing herein shall be construed to prohibit the developer or any contractor from increasing the participation rate of minority and local small contractors above the levels established by the goals.
- j. The above-stated goals are not intended and should not be construed as fixed, numerical quotas. They are designed to reflect the intent of the City to promote more equitable utilization of qualified minority and small local firms. The fact that the trucking will be subcontracted to a small, local or minority trucking broker will not in itself satisfy this requirement and will not be counted toward this goal. A trucking subcontractor shall not be required to park his trailer as a condition of being utilized on this contract. If the trucking subcontractor owns the tractor only and is charged rent for the trailer by the prime contractor, the amount of that rent shall be deducted prior to crediting towards this goal.

D. AFFIRMATIVE ACTION REQUIREMENTS

Any bid which does not meet the goals set forth in this section may be considered non-responsible, unless accompanied by compelling documentation setting forth why the goal cannot be met and indicating that a comprehensive good faith effort as defined in paragraph II.D.(1) below, has been made. Compelling documentation must demonstrate that an insufficient number of minority, female, or local small subcontractor/supplier bidders were not reasonably available and that the contractor made more than just a pro forma effort to meet the goals. Said documentation shall be submitted as part of the bid package. It is expressly understood and agreed by every developer and every contractor that they shall not discriminate against any contractor, subcontractor or supplier who submits a bid for or shows interest in construction work in the project because of race, color, religion, national origin, ancestry, sex, age, disability or marital status.

It is expressly understood and agreed by every developer and every contractor that the policy, goals, affirmative action requirements, reporting and monitoring procedures and enforcement provisions outlined in this section shall constitute the minimum affirmative action program to be carried out by every developer and every contractor with respect to construction contracts in the project. It is expressly understood that in any cases in which there may be differences between the Plan and any Federal or State requirements, the more stringent will apply.

1. "Good Faith Effort" Requirement

A good faith effort shall include at a minimum the following specific affirmative action steps and complete documentation thereof:

- a. Participation in the Notification, Bidding and Pre-Award Process set forth in subparagraph II.C.7(b).
- b. Active solicitation of minority, female and local small contractor and supplier bids, including solicitation of minority, female and small local contractors and suppliers on any lists provided by the City.
- c. Documented contacts with the minority, female and local small contractor associations, supplier associations and related entities including the Minority Contractors' Association of Northern California.
- d. Timely contact with and utilization of the City's One Stop Center or its designated program operators.
- e. Provision of assistance to minority, female and small local subcontractors in such matters as bid preparation and obtaining bonds and insurance.
- f. Encouragement of subcontractors to utilize local small, minority, and female subcontractors and suppliers.

g. Advertisement for bids for minority, female and local small subcontractors or suppliers in the Daily Construction Service, Daily Pacific Builder, with minority trade associations and in local minority newspapers, radio stations, and other daily and weekly newspapers and area media.

h. Utilization of minority and female contractor and supplier lists made available from State of California, federal government or elsewhere; and any lists of local small, minority and female contractors and suppliers made available by the City.

2. Record of Subcontractors Contacted

Contractors bidding on project construction work shall maintain:

a. Separate lists of minority, local small and female subcontractors and suppliers contacted, indicating those selected or rejected and the reason for such rejection.

b. A file of all responses, proposals and bids received from minority, local small and female subcontractors and suppliers.

3. Availability of Records

Each contractor shall make available for inspection by the developer and the City, at any time during normal business hours, all of the documentation and records described and required above under paragraphs II.D. (1) and (2).

4. Listing of Subcontractors in Bid Package

a. Each contractor shall, in the list of subcontractors and suppliers submitted with the bid package, identify the names and addresses of the minority, local small and female contractors and suppliers; the work they will perform or items supplied; and the dollar amount allocated to each minority, local small and female contractor and supplier which will apply to the goals of this section.

b. Listed minority, small local and female subcontractors and suppliers may not be changed to a non-minority, non-local small or non-female contractor or supplier without the consent of the City.

5. Verification of Minority, Female or Local Small Contractor Status

The developer and City shall verify minority, female or local small contractor/supplier status. The minority, female or local small contractor/supplier shall submit any information as needed by the developer or City to assist with said determination.

6. Joint Venture Project Plan Requirement

In cases where joint ventures with minority, local small or female firms are utilized to satisfy the requirements, either at the general or subcontractor level, the minority, female or local small contractor/supplier shall submit any information as needed by the developer or City to assist with said determination.

contract level, a plan for the joint venture's project activity, including a copy of the joint venture agreement, shall be submitted to the developer and the City within ten (10) working days after the date of bid opening. This plan must be clear and specific about the responsibilities of the minority partner in the joint venture and demonstrate that the minority, local small or female partner will participate in the management and performance of the work performed by the joint venture. The sponsoring partner shall also indicate the specific management assistance that it shall render to the minority, local small or female partner during the course of the contract.

7. Developer's Specific Affirmative Action Steps

The following steps and complete documentation thereof, shall constitute the developer's minimum "good faith effort" to ensure that all contractors engaged in project construction achieve the goals and meet the requirements of this section.

a. Subdivision of Contracts

The developer shall ensure that all construction and related contracts are subdivided wherever feasible in such a way that smaller local contractors may have maximum opportunity to bid on and perform construction work in the project.

b. Notification, Bidding and Pre-Award Process

The developer shall institute or cause to be instituted, the following pre-bid and pre-award procedure for all construction and related contracts:

(1) Advance Notice - The developer shall send advance notice of proposed invitations to bid to the City's Human Relations Office, the City's One-Stop Center and minority or small contractor and supplier associations along with a copy of the plans and specifications for the contract.

(2) Formal Invitation to Bid - The developer shall issue a formal invitation to bid to contractors and shall attach to the bid announcement a list or lists of prospective minority, local, small and female subcontractors and suppliers.

(3) List of Interested Contractors to Associations - The developer shall forward a list of all contractors who have taken out plans and/or otherwise indicated an interest in the bid invitation to the City's Human Relations Office, the City's One-Stop Center and the contractor and supplier associations referred to in (1) above.

4) Pre-Bid Conference - The developer shall hold a pre-bid conference, the purpose of which shall be to fully inform the prospective contractors and subcontractors of all bid requirements and to insure that all interested parties know exactly what will be expected of them.

(4) Pre-Bid Conference - The developer shall hold a pre-bid conference, the purpose of which shall be to fully inform the prospective contractors and subcontractors of all bid requirements and to insure that all interested parties know exactly what will be expected of them.

(5) Bid Packages Submitted to Developer - The developer shall require that each bid package submitted by prime contractor's bidders shall include the name, address, items of work or supply, and the minimum dollar amount to be awarded to minority, local, small and female contractors or suppliers.

(6) Pre-Award Conference - The developer shall hold a pre-award conference to allow the successful bidder to spell out its commitment to meet the goals and requirements of the Plan. The purpose of the pre-award conference shall be to determine how the contractor will comply with all the goals and requirements of the plan. The developer shall invite the City and a representative from the Affirmative Action Committee to participate at the preaward conference.

(7) Pre-Construction Conference - The developer shall hold a pre-construction conference to allow the successful bidder to commit itself publicly to implement the affirmative action goals and requirements and to introduce its major subcontractors. The developer shall invite the City and a representative from the Affirmative Action Committee to participate at the conference. The developer and/or the City may, at their own discretion, invite other parties to be present. The developer shall assure that all of the affirmative action obligations and requirements are mutually understood by the developer, the contractor and its subcontractors.

c. Subcontractor Bonding Program

The developer and the City shall endeavor to establish a program of subcontractor bonding for small previously unbonded firms that otherwise demonstrate an ability to perform construction contracts in the project. The developer and the City shall also develop criteria for reducing or waiving bonding requirements in certain situations to the maximum allowable extent.

d. Other Assistance to Contractors

The developer shall assist contractors to meet the goals and requirements of this section by making available relevant resources and programs as mutually agreed upon and developed by the City and the developer, such as a contractor's assistance center, direct loan fund with SBA to provide line of credit, specialty contractor licensing assistance, etc.

d. Other Assistance to Contractors

The developer shall assist contractors to meet the goals and requirements of this section by making available relevant resources and programs as mutually agreed upon and developed by the City and the developer, such as a contractor's assistance center, direct loan fund with SBA to provide line of credit, specialty contractor licensing assistance, etc.

8. Option to Select Contractors by Negotiated Process

The developer shall in its sole discretion have the option to select contractors and subcontractors through a negotiated process rather than through formal bid procedure. In those instances where the developer exercises the option, it shall still be required to hold a pre-award conference and pre-construction conference as described in subparagraph II.D.7.(b) above.

9. Implementation Plan

The developer shall submit to the City thirty (30) days prior to signing the agreement for the project a detailed plan for carrying out its responsibilities to meet the goals and requirements and to ensure that contractors meet the goals and requirements of this section.

E. MONITORING AND REPORTING PROCEDURES

1. Monitoring and Reporting Obligations of Contractor

a. Monitoring

Each contractor shall be responsible for monitoring on a continuing basis the performance of all its subcontractors to ensure that they meet the goals and comply with the requirements of this section.

b. Reporting

(1) Each contractor shall provide with all requests for progress payments a listing of amounts due participating minority, female and local small subcontractors and copies of disbursement vouchers to minority and local small subcontractors. Failure to comply with this provision may result in withholding of progress payments.

(2) Each contractor shall promptly notify the City and developer (where applicable) of any change in the status of any of its subcontracts and subcontractors.

2. Monitoring and Reporting Obligations of the Developer

a. Monitoring

The developer shall monitor on a continuing basis the performance of its prime contractor on all contracts relative to the goals and requirements of this section, by conducting on-site visits and interviews and by reviewing the progress payment requests and other relevant documents of the prime contractor and subcontractors.

b. Reporting

(1) The developer shall submit to the City on a monthly basis an updated summary of minority, female and local small contractor participation, by dollar amount and percentages, for each construction contract.

(2) The developer shall report promptly to the City the following:

(a) Any apparent instances of noncompliance on the part of any contractor(s);

(b) Actions taken by the developer to assure compliance; and

(c) Any significant problems relating to carrying out the intent and specific goals and requirements of this section.

c. Documentation

The developer shall maintain and have available to the City a complete documentation of all actions taken and activities carried out to ensure that all contractors meet the goals and requirements of this section. Said documentation shall include and is not limited to: reports of on-site visits; all relevant correspondence, record of relevant telephone conversations and meetings; and formal and informal actions taken.

F. PUBLIC WORKS SMALL CONTRACTOR PREFERENCE

A small contractor which is also a minority business, or female-owned business, or Richmond business may be eligible for a small contractor preference in the award of public works construction contracts by the City of Richmond.

Any eligible bidder shall be granted a preference in an amount equal to five (5) percent or \$25,000, whichever is less, if the low bid has been submitted by a bidder who is not certified as an eligible small contractor as described above. If, after deduction of the applicable preference from an eligible small contractor's bid, it is equal to or less than the lowest responsible bid, the contract shall be awarded to the eligible small contractor at its bid price.

To be eligible for the above preference the bidder must:

1. be precertified by the City of Richmond as qualified for the small contractor preference;
2. submit a written request for the small contractor preference with the bid proposal.

3. certify under penalty of perjury with the bid that the contractor is a small business/contractor as defined in the Introductory Section of the Plan and is a minority or female-owned business as defined in the Introductory Section; and
4. be an otherwise "responsible bidder" as defined in the bid documents.

This small contractor preference shall not apply to contracts where such preference is prohibited by the funding source or is deemed by the City Council of the City of Richmond not to be in the interest of the City.

CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

SECTION III. PERMANENT PROJECT EMPLOYMENT

A. POLICY STATEMENT

1. It is the policy of the City of Richmond to provide equal employment opportunity in all aspects of permanent employment by project developers and business enterprises; to assure there is no discrimination by the project employers or service contractors against any person on the basis of race, color, religion, national origin, ancestry, sex, age, disability or marital status; and to maximize employment opportunities for minorities, women, Richmond residents and the disabled.
2. The City further states it has a compelling interest in seeking diversity; in redressing the historical employment discrimination against minorities, women, and disabled persons; and in promoting equal opportunity through affirmative action to increase the number of minorities, women, Richmond residents, and disabled persons employed in project business enterprises.

B. APPLICABILITY

1. This section applies to all developers, owners, employers, commercial tenants and service contractors in a "project" including those owned by the City of Richmond which receive one or more forms of direct or indirect City financial assistance as follows: 2) City lease, b) land disposition agreement in City-assisted project, c) grant, d) loan or loan guarantee, and e) subsidy (other than bond issues).
2. In the case of bond issues this section only applies to developers; owners; business or corporate affiliates, employees, or corporate officers of developers/owners which receive City financial assistance through one or more bond issues as follows: a) industrial development bonds, b) lease revenue bonds, c) tax allocation bonds, and d) assessment district bonds which contribute significantly to the financial feasibility of a substantially new or rehabilitated commercial project.

In the case of bond issues this section does not apply to commercial tenants or service contractors not affiliated with developers/owners as described herein above; however, developers/owners shall carry out the requirements set forth in III, D, 6, a, (3) (b) below.

3. This section does not apply to employment by other governmental agencies or regulated utilities. The goals for this section do not apply to a covered employer's work force transferred or moved from other operations of the employer; however, the goals shall apply to all new hires of such employers.

C. GOALS

The ultimate, long range goal is to achieve an employment level of minorities and females equal to their distribution in the West Contra Costa County population at all occupational levels and to achieve an employment level of the disabled equal to their actual ability to participate in the labor force. In recognition of the limited availability of such person with the requisite training and/or experience in many occupational categories the interim permanent project employment goals are as follows:

1. Each employer shall make a good faith effort to employ minorities and females at a rate at least equal to 125 percent of their distribution in the civilian labor force as determined by the 1980 U.S. Census for the Oakland-San Francisco Standard Metropolitan Statistical Area (SMSA) which includes Alameda, Contra Costa, Marin, San Francisco and San Mateo counties. In no case shall the minority employment goal be lower than 35 percent; nor shall the minority or female employment goal be higher than the minority and female population distribution in West Contra Costa County (currently 52.4% and 51.9% respectively). This goal applies to each major occupational category as defined by the U. S. Equal Employment Opportunity Commission. (See Appendix III-A)
2. Each employer shall make a good faith effort to hire 50 percent of all new employees from among Richmond residents.
3. Each employer shall make every effort to hire and employ the disabled.

Notes: a. The above stated goals are not intended to be fixed quotas or mandated hiring procedures.

b. The stated goals may be modified by the Compliance Officer in the following situations:

(1) Where an employer can demonstrate that in a specific occupational classification there are an insufficient number of minorities, females or Richmond residents in the labor force possessing the requisite skills or training and that such persons cannot be trained to fill such positions in a reasonable period of time. In such cases the goals for minority and female employment shall be 125 percent of civilian labor force participation rate for minorities or females in that classification for the SMSA and the goal for Richmond residents shall be 125 percent of the civilian labor force rate for the City of Richmond.

(2) Where an employer has less than five employees in any one occupational category.

D. AFFIRMATIVE ACTION REQUIREMENTS FOR PROJECT EMPLOYERS

All Employers. Each employer covered by this section shall be responsible for making a good faith effort to achieve the employment goals outlined in Subsection C above; and preventing or eliminating employment discrimination in their business based on race, color, religion, national origin, ancestry, sex, age, disability or marital status.

Employers with Less than Twenty (20) Employees. Each employer covered by this Section who has or expects to employ less than 20 employees within six months of locating in the project shall be exempt from all subsequent provision of this subsection; however, the employer shall submit a Work Force Profile as described in paragraph D.1) a. and an annual Employment Data Report (Appendix III-B) to the City of Richmond Compliance Officer at a time specified by the City.

Employer with Twenty (20) or More Employees. Each employee who has or expects to employ 20 or more employees within six months of locating in the project shall be responsible for implementing the following specific requirements:

1. Conditions of acceptance for location in the project area

a. Work Force Profile

Prior to locating in the project, the employer shall submit to the developer a projected work force profile using the Employment Data Report (Appendix III-B), which shall be based upon the work force expected to exist six months after the date it commences operation in the project.

b. Affirmative Action Plan

The employer shall develop, adopt and implement a written Affirmative Action Plan which outlines the employer's employment goals and describes how the employer will meet the goals and satisfactorily comply with all the requirements and obligations of this section. The employer's written plan shall include all of the "good faith effort" steps listed under paragraph D.2 below, as well as any additional steps the employer intends to use to meet the employment goals.

c. Affirmative Action Officer

Each employer shall appoint an Affirmative Action Officer to be responsible for the employer's affirmative action program effort and to represent the employer in all matters relating to equal employment opportunity and affirmative action.

2. "Good Faith Effort" to meet or exceed employment goals

a. Each employer shall make every effort to communicate available employment opportunities to minorities, women, residents and disabled persons, and shall notify relevant Richmond area organizations, groups, media, the One Stop Center and the Richmond Private Industry Council of such opportunities.

b. Each employer shall communicate their affirmative action policy to all employees in each business enterprise.

c. The employer shall solicit assistance of the Richmond Private Industrial Council and those relevant organizations listed with the City's One-Stop Center to aid in the recruitment and training of minorities, female and resident employees and participate in applicable programs where appropriate to meet its goals under this section.

d. The employer shall, in all solicitations or advertisements for employees, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, sex, age, disability or marital status and shall post a statement to this effect in conspicuous places available to employees and applicants for employment.

e. The employer shall ensure that its employee selection procedures do not have a discriminatory impact and shall validate all personnel specifications, selection requirements and tests in accordance with the Federal Uniform Guidelines on Employee Selection Procedures, a reference copy of which is available in the Richmond Human Relations Office.

f. The employer shall regularly evaluate and consider all minority, female, resident and disabled employees for promotional opportunities. Such employees shall be encouraged to seek promotional opportunities or encouraged to attain the skills, training or qualifications necessary to qualify for higher level positions.

g. The employer shall maintain a file on the names and addresses of each minority worker, resident and female worker referred. A separate file shall be maintained for each of the categories: Minority persons, residents and women. In cases where the same person belongs in two or more of these categories, the name and address of the person shall be listed in each file to which he/she belongs. The file shall indicate what action was taken with respect to each such referred worker and, if the worker was not employed, the reasons therefore. Where such person was rejected as "not qualified", the specific qualifications lacking shall be noted.

h. Each employer shall continually monitor all personnel activities to ensure that the affirmative action requirements described herein are being carried out.

3. Additional "Good Faith Efforts"

An Employer who expects to be unable to achieve or does not achieve 70 percent of the goal for any two employment goals* shall undertake two additional good faith efforts:

- * Achievement of the minority, female and Richmond resident employment goals shall be measured on the basis of the employer's combined goal attainment across all occupational categories.

a. Refer all job openings to the City of Richmond or agencies designated by the City of Richmond and give qualified applicants referred by the City or agencies first opportunity for employment.

b. Develop and implement a training program to qualify minorities, females and Richmond residents for employment with the firm in conjunction with the Richmond Private Industry Council, and other educational and vocational training institutions in the area. In lieu of such training program the employer may make a voluntary contribution to the City Employment Training Fund in an amount between \$500 and \$2,000 for each employee for which there is or the employer anticipates a short fall in meeting the goal. The short fall is based on the difference between the goal and actual performance by the employer.

4. Reporting Requirements

a. Each employer shall submit to the City of Richmond Compliance Officer on a semi-annual basis an Employment Data Report (see Appendix III-B) listing all persons employed during the period and an Employment Data Report listing all new hires during the period.

b. Each employer shall document fully all the specific affirmative action steps undertaken as "good faith effort" to meet or exceed employment goals and shall make these documents available to the developer or the City of Richmond Compliance Officer upon request.

c. Each employer covered by this section of the Plan as a result of financial assistance through industrial development bonds, assessment district bonds or tax allocation bonds may cease submission of Employment Data Report five (5) years after completion of project construction provided the firm is meeting the goals of this section.

5. Monitoring and Compliance

a. If an employer's work force meets and maintains each of the goals stated in subsection III. C. above, then the employer shall be considered to have met the requirements of this section and shall not be required to carry out any further affirmative action measures, except as necessary to maintain the goals achieved. Employment Data Reports need only be submitted annually to the Compliance Officer once compliance is achieved.

b. Where a particular goal has not been met, each employer shall be required to document with specificity the reasons why any minority, resident, woman, or disabled applicant was not hired. Where a rejection is based on lack of qualifications, the particular qualification(s) lacking must be specified.

c. An employer whose work force fails to meet the affirmative action goals, but who can demonstrate to the satisfaction of the City that it has made a comprehensive, "good faith effort" as defined in 2. above, shall not be found to be in non-compliance under this section.

d. Employers consistently not meeting goals stated in Subsection C and who the developer and/or City determines has not made a "good faith effort" to achieve compliance with the provisions of Section III, shall be found to be in non-compliance.

6. Project Developers

The project developer shall be responsible for the implementation of the following specific requirements:

a. "Good faith effort" to ensure employers meet or exceed employment goals

(1) Affirmative Action Officer

The developer shall designate an Affirmative Action Officer who shall be responsible both for implementation of the developer's own affirmative action program as well as the developer's obligations with respect to monitoring of and compliance by all project employers.

(2) Implementation Plan

The developer shall submit to the City, 30 days prior to signing an agreement, a detailed plan and program for carrying out its responsibilities in relation to its own affirmative action compliance and the affirmative action compliance of any and all project employers. The plan shall be consistent with the terms and conditions of this section.

(3) Applicability of Section III to Commercial Tenant and Service Contractors

(a) The developer shall include the Plan introduction and Section III of the Plan in all leases between the developer and commercial tenants to which this plan applies.

(b) The developer shall provide the One-Stop Center, the Richmond Private Industry Council and other appropriate employment and training agencies access to commercial tenants to which this plan does not apply. The developer shall assist these agencies in making contact with these commercial tenants and shall encourage commercial tenants to utilize these agencies in filling their employment needs. The process for carrying out this responsibility shall be specified in the developer's implementation plan described in III, D, 6, a. (2) above.

(4) Documentation

The developer shall document the actions taken by it to carry out its obligations under this section.

b. Reporting Requirements

(1) Standard Reports

The developer shall submit to the City on a regular basis, a summary report concerning the status of the developer's employers; however, developers only utilizing industrial development bonds, tax allocation bonds or assessment district bonds may cease submission of reports and monitoring of employment goals five (5) years after completion of construction provided the goals of this section are being achieved.

(2) Special Reports

The developer shall report promptly to the City the following:

- (a) Any apparent instances of non-compliance among project employers.
- (b) Any significant problems relating to carrying out the intent and specific requirements of this Section.
- (c) Actions taken by the developer to encourage compliance in the situations identified in (a) and (b) above.

c. Monitoring and Compliance

- (1) The developer shall monitor the affirmative action efforts of project employers to meet the goals and requirements of this section.
- (2) The developer shall assist employers in meeting the affirmative action goals and requirements as needed. It shall provide special attention to those employers which are potentially or repeatedly in non-compliance.
- (3) The developer shall document the actions taken by it to carry out its obligations under this section and shall make these records available for review by the City upon request.

APPENDIX III-A
PERMANENT EMPLOYMENT GOALS
AND
SMSA CIVILIAN LABOR FORCE PARTICIPATION

	<u>Goals *</u>		<u>SMSA Civilian Labor Force Participation</u>	
	<u>Minority</u>	<u>Female</u>	<u>Minority</u>	<u>Female</u>
1. Managers and Officials	35%	45%	19.5%	36.2%
2. Professionals	35%	51.9%	19.9%	45.0%
3. Technicians	35%	50%	28.1%	40.1%
4. Sales Workers	35%	51.9%	21.1%	45.6%
5. Office & Clerical	42%	51.9%	33.7%	75.3%
6. Craft Workers (Skilled)	35%	12%	27.8%	9.7%
7. Operatives (Semi-skilled)	52.4%	34%	43.9%	27.3%
8. Laborers (Unskilled)	52.4%	23%	44.5%	18.1%
9. Service Workers	52.4%	51.9%	43.2%	48.1%

*Goals = 1.25 X SMSA Civilian Labor force participation as determined by the 1980 U.S. Census with a minimum minority goal of 35% and maximum minority and female goals of parity with the minority and female distribution in the West Contra Costa County population (52.4% and 51.9% respectively).

Employment Data ReportCity of Richmond-Human Relations OfficeSECTION A. Type of Report

- Check One: ☐ I. Projected work force estimated as of _____, 19____.
- ☐ II. Quarterly report as of _____, 19____.
- ☐ III. New hires for the ☐ year _____, 19____ to _____ 19____.
- ☐ IV. Annual report as of _____, 19____.

SECTION B. Company IdentificationOffice
Use
Only

1. Establishment for which this report is filed

a. Name of establishment

a.

Address (Number and street) City or Town County State Zip/code

b.

b. Employer Identification No.

2. Parent Company

a. Name of parent company (owns or controls establishment in item 1)

c.

Name of receiving office

Address (Number and street) City or Town County State Zip/code

d.

Employer Identification No.

SECTION C.

☐ Yes ☐ No 1. Does the entire company have at least 50 employees in the payroll period for which you are reporting?

☐ Yes ☐ No 2. Is your company affiliated through common ownership and/or centralized management with other entities in an enterprise with a total employment of 50 or more?

Certified correct:

Signed _____ Date _____

Title _____

SECTION D - Number of Employees

Enter on this project--Report all fulltime, permanent or temporary employees, including apprentices and on-the-job trainees. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered zeros.

Project: _____

Company name: _____

JOB CATEGORIES	OVERALL TOTALS (sum of Columns B thru K A	NUMBER OF EMPLOYEES										RICHMOND RESIDENTS L
		MALE					FEMALE					
		White B (not Hispanic)	Black C (not Hispanic)	D Hispanic	Asian or Pacific Island E	American Indian or Alaskan F	White G (not Hispanic)	Black H (not Hispanic)	I Hispanic	Asian or Pacific Island J	American Indian or Alaskan K	
Officials & Managers												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craft Workers (specify) ..												
Operatives (semi-skilled)												
Laborers (unskilled)												
Service Workers												
TOTALS												

1. General Outreach Efforts

The developer shall actively seek minority, Richmond and women entrepreneurs to own and operate businesses in each phase of the project's commercial development and document such efforts.

2. Communication

The developer shall establish and maintain a permanent system for dissemination of timely, accurate information on upcoming business opportunities within the project in conjunction with paragraph 1 above, including notification to the "One Stop Center", local, women and minority business organizations, community organizations, and where appropriate various communications media.

3. Joint Ventures, Partnerships & Corporations Plan Requirements

In a case where a joint venture, partnership, or corporation with minority, Richmond small or female firms is utilized to satisfy the affirmative action requirements, a plan for the joint venture's, partnership's or corporation's business activity including a copy of the written agreement shall be submitted to the developer. This plan must be clear and specific about the responsibilities of the minority Richmond small or female partner in the joint venture, partnership or corporation. The joint venture shall also submit the following:

- a. Articles of Incorporation;
- b. By-laws;
- c. List of Officers;
- d. Managing Executives; and
- e. The specific management assistance that it shall render to assist the minority partner during the course of the agreement.

NOTES:

- a. Minority, Richmond small or female ownership of a joint venture, partnership or corporation shall count toward meeting the business opportunity goal where the minority, Richmond small or female partner is actively involved in the day-to-day operation of the business at the management level.
- b. Minority, Richmond small or female ownership of joint ventures, partnerships, and corporations must be at least 30% to count toward fulfilling the business opportunity goal. To determine how much of a joint venture, partnership or corporation shall count toward the goal, the dollar amount of the business shall be multiplied by the percent of minority, Richmond small or female ownership in the joint venture, partnership or corporation.

4. Programs

The developer and the City are jointly responsible for developing programs to provide technical and financial assistance to assist Richmond, minority and women entrepreneurs. Program may include but are not limited to: loan packaging; low-cost, long-term financing; management, marketing or account assistance; and rent scaling. Costs incurred shall be negotiated between the developer and the City.

5. Implementation Plan

The developer shall submit to the City, thirty (30) days prior to signing the agreement for the project, a detailed written plan for carrying out its responsibilities relating to the requirements of this section. The plan will be consistent with the terms and conditions of this section.

6. Section IV Included in Leases and Contracts

As appropriate the developer shall include the goals of Section IV of the Plan in leases between the developer and commercial tenants, subtenants, subdevelopers and business owners.

7. Assistance to Commercial Tenants

a. The developer shall provide commercial tenants with assistance as needed in meeting the affirmative action goals and requirements, particularly to those commercial tenants which are potentially in non-compliance.

b. The developer shall also provide access to commercial tenants, subdevelopers and owners for minority, female and Richmond small vendors and service contractors, and shall otherwise cooperate with the One-Stop Center, business development organizations and business associations in providing access to business opportunities for such businesses. The developer shall describe how it intends to carry out this responsibility in its implementation plan identified in D.5 above.

E. MONITORING AND REPORTING PROCEDURES

1. Monitoring and Reporting Obligations of Commercial Tenants

All commercial tenants and business owners covered by this section shall submit semi-annual reports to the developer, indicating the service contracts, leases, and other business opportunities with resident, minority and women-owned businesses, and the percentage goal achieved.

CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

SECTION IV - BUSINESS OPPORTUNITIES

A. POLICY STATEMENT

1. It is the policy of the City of Richmond to provide equal opportunity to all persons seeking participation in business and other commercial opportunities in city-assisted projects, to ensure that there is absolutely no discrimination against any person on grounds of race, color, religion, national origin, ancestry, sex, age, disability or marital status, and to provide maximum opportunities for minority persons, residents, and women to establish and operate businesses in a project.
2. The City further states that it has a compelling interest in seeking diversity, in redressing the historical discrimination against minority and female business enterprises and in promoting equal opportunity through affirmative action strategies and incentives to increase the number of minority, Richmond small, local and female businesses locating and otherwise participating in projects.
3. It is the policy of the City of Richmond to provide opportunities for minority persons and/or minority business enterprises to participate in the ownership and operation of city-assisted development projects and business ventures. Because the potential for minority equity participation will vary widely from project to project, the practicability and level of such participation will be determined on a case-by-case basis. The City Manager shall develop guidelines for determining the practicability and level of minority equity participation including, but not limited to, the criteria as follows: (1) the nature of a development project and/or business ventures, (2) the number of potential bidders for a project or venture, (3) the number of potentially interested minority ventures and (4) other affirmative action commitments proposed by a developer or business venturer which exceed the requirements of this or other sections of this Affirmative Action Plan.

B. APPLICABILITY

1. This section applies to all developers, owners, and commercial tenants in a "project" including those owned by the City of Richmond which receive one or more forms of direct or indirect City financial assistance as follows: a) City lease, b) land disposition agreement in a City-assisted project, c) grant, d) loan or loan guarantee, and e) subsidy other than bond issues).
2. In the case of bond issues this section only applies to developers; subsequent owners; business or corporate affiliates, employees or corporate officers of the developers/owners which receive City financial assistance through one or more bond issues as follows: a) industrial develop-

ment bonds, b) lease revenue bonds, c) tax allocation bonds, and d) assessment district bonds which contribute significantly to the financial feasibility of a substantially new or rehabilitated commercial project.

In the case of bond issues, this section does not apply to commercial tenants not affiliated with the developer as described herein above; however, the developer shall carry out the requirement set forth in IV,D,7,b. below.

C. GOALS

1. The developer/owner agrees to adopt and attain the following goals for ownership of business enterprises to be located in the project.

a. Minority business enterprises - 20%

b. Richmond small business enterprises - 25%

c. Women-owned business enterprises- 10%

d. Preference shall also be given to small and other Richmond businesses.

2. The developer shall give priority consideration to residents, Richmond businesses, minority and women-owned businesses in service contracts, and other business opportunities in the project, and to the extent feasible shall meet the goals specified above in these areas.

NOTES: a. The above stated goals are not intended and should not be construed as fixed, numerical quotas.

b. Goal 1, a-d shall be measured as a percentage of the total number of square feet occupied by business enterprises during each phase of the project, or such other measure as may be more appropriate to the development and which shall be approved in advance by the City's Compliance Officer.

c. The developer shall ensure that subdevelopers meet goal #1, a-d. and that subdevelopers, commercial tenants and business owners meet goal #2.

d. A minority-owned, Richmond resident or women-owned business which qualifies to be counted toward more than one goal may be double or triple counted (i.e. may be counted toward the achievement of each of goals 1, a-c, as appropriate).

D. AFFIRMATIVE ACTION REQUIREMENTS

The following specific affirmative action requirements constitute the minimum ingredients of a "good faith effort" on the part of the developer/owner to meet the goals of this section.

2. Monitoring and Reporting Obligations of the Developer/Owner

a. Monitoring

The developer/owner shall monitor covered commercial tenants and business owners with respect to their affirmative action efforts and this section by conducting interviews and reviewing records, reports and any other relevant documents that the developer/owner may require of the commercial tenants.

b. Documentation

The developer shall maintain complete documentation of all activities taken to carry out the affirmative action requirements of the subsection D above and to meet the goals of this section.

c. Reporting

- (1) The developer shall submit to the City on a quarterly basis, a report summarizing the ownership status of business enterprises in the project, with respect to the goals of this section.
- (2) The developer shall report promptly to the City the following:
 - (a) any apparent instances of non-compliance on the part of any commercial tenants;
 - (b) actions taken by the developer to assure compliance; and
 - (c) any significant problems relating to carrying out the intent and specific goals and requirements of this section.

CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

SECTION V. CITY OF RICHMOND PURCHASING, LEASING AND FRANCHISES

A. POLICY STATEMENT

1. It is the policy of the City of Richmond to provide equal opportunity in the award of City goods and services contracts/purchase orders, leases and franchises, to ensure that there is no discrimination against any person or business on the grounds of race, color, religion, national origin, ancestry, sex, age, disability or marital status; and to provide maximum opportunities for minority, female, Richmond small and other Richmond businesses to bid on, and/or be awarded City goods and services contracts/purchase orders, leases and franchises.
2. The City further states that it has a compelling interest in seeking diversity and in promoting equal opportunity through affirmative action strategies and incentives to increase the number of minority, small, local and female businesses doing business with and in the City of Richmond.
3. It is the policy of the City of Richmond to provide opportunities for minority persons and/or minority business enterprises to participate in the ownership and operation of development projects and business ventures assisted through leases of City property or City franchises. Because the potential for minority equity participation will vary widely among projects and ventures, the practicability and level of such participation will be determined on a case-by-case basis. The City Manager shall develop guidelines for determining the practicability and level of minority equity participation including, but not limited to, the criteria as follows: (a) the nature of a development project and/or business ventures, (b) the number of potential bidders for a project or venture, (c) the number of potentially interested minority ventures and (d) other affirmative action commitments proposed by a developer or business venturer which exceed the requirements of this or other sections of this Affirmative Action Plan.

B. APPLICABILITY

Section V, City of Richmond Purchasing, Leasing, and Franchises shall apply to all purchasing of goods and services, rental of equipment, hiring of consultants and other professional services, leasing of real and personal property, and award of new franchises by the City of Richmond.

This section does not apply to other governmental agencies, regulated utilities, or to City construction contracts and supply contracts related thereto (see Sections II and III).

C. GOALS

1. Purchasing and Service Contracting

- a. MINORITY OWNED BUSINESSES: TWENTY (20) PERCENT OF THE TOTAL DOLLAR AMOUNT OF CITY OF RICHMOND GOODS AND SERVICES CONTRACTS IN EVERY FISCAL YEAR SHALL BE AWARDED TO MINORITY BUSINESSES.
- b. FEMALE-OWNED BUSINESSES: TEN (10) PERCENT OF THE TOTAL DOLLAR AMOUNT OF CITY OF RICHMOND GOODS AND SERVICES CONTRACTS IN EVERY FISCAL YEAR SHALL BE AWARDED TO FEMALE-OWNED BUSINESSES.
- c. RICHMOND SMALL BUSINESSES: TWENTY -FIVE (25) PERCENT OF THE TOTAL DOLLAR AMOUNT OF CITY OF RICHMOND GOODS AND SERVICES CONTRACTS IN EVERY YEAR SHALL BE AWARDED TO RICHMOND SMALL BUSINESSES.
- d. IN THE AWARD OF GOODS AND SERVICES CONTRACTS THE CITY OF RICHMOND SHALL GIVE PRIORITY CONSIDERATION TO RICHMOND BUSINESSES.

Note: The dollar amount awarded to a business qualifying under two or more of the goals above may be counted toward each goal for which the business qualifies, (e.g., the dollar amount awarded to a Richmond small, minority, female business may be counted towards goals 1.a., 1.b., and 1.c.).

D. CITY PROCEDURES

1. Utilization of Lists of Minority/Female/Richmond Small Businesses

- a. The City Purchasing Agent or his/her designee (hereinafter "Purchasing Agent") in conjunction with the One-Stop Center shall maintain, and update periodically, lists of minority owned, female owned, and Richmond small businesses, service contractors, consultants, and suppliers for all regularly recurring categories of goods and services required by the City.
- b. The Purchasing Agent shall, as a regular procedure, include appropriate minority owned, female owned, and local small firms from the above-referenced lists and from other sources as available in all written and telephone invitations for bids for City goods and services contracts, consultant contracts, leases, and franchises. Other City departments shall also follow this procedure when soliciting bids or quotations.

2. The City shall continue to implement the existing "Purchasing Procedural Regulations," except as provided under this sub-section.

- a. In good and services contracts where bids are involved, the City shall also extend to bids made by Richmond small/minority/female businesses a five (5) percent discount as part of the selection process. If the lowest Richmond small/minority/female business bid is within 5% of the otherwise lowest bid, then the lowest Richmond small/minority/female bidder shall be offered the contract.

- c. Richmond small businesses which are also minority/female businesses shall qualify for both discounts above and shall be extended a total discount of ten (10) percent.

3. Preference to Richmond Bidders

Except as specified in II-D 2 above orders shall be awarded to the lowest responsible bidder, as defined and qualified in the "Purchasing Procedural Regulations." Price and quality being equal, the City shall give preference in the award of bids to Richmond bidders.

4. Consultant Selection Procedure

The "Procedure for Selection of Consultants," adopted November 8, 1976 by the Richmond City Council pursuant to Resolution No. 165-76, and any subsequent modifications, are hereby incorporated in this section and made a part thereto.

5. Monitoring and Reporting

a. The Compliance Officer shall be responsible for monitoring the City's progress toward meeting its goals for this section. The monitoring procedure shall include, but is not limited to, the following:

- (1) an accounting procedure for recording the cumulative award of contracts to minority, female and Richmond small businesses;
- (2) periodic monitoring of the bid and purchasing process to ensure that all city procedures outlined above are satisfactorily implemented; and
- (3) quarterly reports to the City Manager, City Council, and Affirmative Action Committee on progress toward meeting the minority, female-owned and Richmond small business participation goals.

6. Complaint Procedures

- a. Complaints alleging discrimination against any vendor, supplier, service contractor, lessor, lessees, or franchisee doing business with the City of Richmond shall be referred to the Compliance Officer.
- b. The Compliance Officer shall conduct investigations and attempt to informally resolve the complaint.
- c. If the complaint cannot be resolved informally, then the compliance procedure outlined in Subsection D. 6 of the Introductory Section of the Plan will be followed to resolve the issue.

CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

SECTION VI. City of Richmond Work Force

A. POLICY STATEMENT

1. It is the policy of the City of Richmond to be fair and impartial in its relations with its employees and applicants for employment without regard to race, color, religion, national origin, ancestry, sex, age, disability or marital status. The City of Richmond recognizes that equal employment opportunities can only be achieved through a positive, continuing affirmative action program applicable to each City department and agency. This policy of affirmative action shall apply to every aspect of City employment policy and practice, and if progress is to be made toward achieving equal employment opportunity, the affirmative action efforts must be positive-action steps, not merely passive.
2. To achieve the goal of equal employment opportunity, the City Council of the City of Richmond has adopted this policy statement as the cornerstone of its Affirmative Action Plan.
3. The Affirmative Action Plan commits all City of Richmond employees, officials, Council, Board, and Commission members to support, in an affirmative pro-active fashion, the City Council's policy regarding equal employment opportunity.
4. The Affirmative Action Plan shall be implemented consistent with State and Federal laws, and other mandated requirements as may now or in the future exist. Examples of such include: The Civil Rights Act of 1964 as amended by the Equal Employment Opportunities Act of 1972; the Fair Employment and Housing Act, as amended; the Rehabilitation Act of 1973; and the Age Discrimination Acts of 1967 and 1975.

B. APPLICABILITY

This Plan applies to all City of Richmond employees and applicants for City of Richmond employment.

C. GOALS

This Plan is a statement of ultimate goals. It is not intended to set quotas or mandate any specific hiring procedure. There are many flexible methods of achieving the goals, including some not mentioned herein. If, at some future date, specific mandated hiring procedures, such as quotas or selective certification, become necessary, public hearings will be required as well as specific findings relating to the need for such procedures and their expected duration.

Since the object of an affirmative action plan is to eliminate the effects of past practices by establishing employment goals based on race, when such goals are achieved, this Plan will no longer be necessary and shall end.

Our goals include:

1. Minorities: to establish and maintain employment levels in proportion to the percentage residing in West Contra Costa County. Based on the 1980 Census, the goal is 52.4%.
2. Women: to establish and maintain employment levels in proportion to 125 percent of the availability of women in the Standard Metropolitan Statistical Area labor market, but in no case more than the proportion of women in the West Contra Costa County population. In establishing this goal, it is recognized that women have been traditionally excluded or do not seek work in certain occupational groups. To the greatest extent possible, goals shall be set bi-annually, equal to the interest shown in each occupation as exhibited by women working in the occupation and/or seeking work in the occupation.
3. Disabled. to establish and maintain reasonable accommodation consistent with job related criteria to enable disabled persons to have a fair chance for employment.

Notes: To achieve these goals, it is necessary to:

- a. take affirmative action steps necessary to achieve this employment representation in all departments and occupational groups.
- b. eliminate and prevent the use of arbitrary employment and promotional or other work related practices which would thwart the perception and reality of equal employment opportunity.
- c. fully utilize the existing resources among women, minority and disabled employees of the City.
- d. communicate this Policy and Plan to City employees and the diverse communities within the City of Richmond.
- e. monitor and enforce this Program.
- f. review and update goals and timetables biannually by means of a work force utilization analysis.

D. TIMETABLES

Timetables to achieve these goals shall be based on a work force utilization analysis as updated biannually based on past achievements.

E. AFFIRMATIVE ACTION REQUIREMENTS:

1. Communication of the Affirmative Action Plan to each City employee.
 - a. All City departments will post a copy of the General Policy Statement and a copy of the FEHC's Poster Discrimination in Employment in a conspicuous place.

b. All employees will be informed of the Plan and where they may review a copy. Copies shall be kept in a convenient location in each City department.

c. All new employees hired after the adoption of this Plan shall be informed of this Plan by the Personnel Department or their own department.

d. A policy statement of equal employment opportunity shall be incorporated in the Personnel Rules.

e. All Department and Agency Heads shall, periodically, attend a general meeting with the City Manager to explain their progress, plans and problems in Affirmative Action.

f. For external distribution:

(1) Recruiting sources shall be sent a copy of the Equal Employment Opportunity Policy Statement.

(2) All employment announcements shall contain the words that Richmond is an Equal Opportunity City and that it is an equal opportunity/affirmative action employer.

(3) Copies of this Affirmative Action Plan will be available to any individual upon request. A duplicating fee may be charged.

2. Assignment of Responsibility

a. City Council Responsibilities

(1) Establish City policies

(2) Assure implementation of City policies

(3) Review and take action upon recommendations and comments from the City Manager, other City representatives and/or the general public.

b. City Manager Responsibilities

(1) Assume overall responsibility for implementation of this Plan; be responsible for the communication, administration, monitoring and evaluation; and be responsible for the achievement of the stated goals. The City Manager may delegate the various administrative, monitoring, and evaluation activities as appropriate.

(2) Conduct on-site investigations no less than quarterly to assess the effectiveness of the procedures and employment goals established

herein. Upon receipt of the employment status reports described below, the City Manager shall make public their contents at a meeting of the City Council.

(3) Ensure that department and agency heads comply with the policies herein and carry out the responsibilities herein outlined and take appropriate action when required.

c. Personnel Director Responsibilities

(1) Directly administer the provisions of the Plan as they relate to City employment.

(2) Prepare reports as directed by the City Manager.

(3) Review the City's employment programs and policies.

(4) Assist the Personnel Board on Affirmative Action related matters.

(5) Assist Department Heads on Affirmative Action related matters.

(6) Actively communicate with community and special interest groups.

(7) Administer the Complaint Resolution Procedure (see Addendum I).

d. Department & Agency Head Responsibilities

(1) Ensure that the stated goals are achieved, and be the Affirmative Action coordinators in their respective departments or agencies.

(2) Implement the following specific activities:

(a) prevent discrimination in their department or agency.

(b) insure that supervisory and other staff fully understand and attempt to reach the goals herein.

(c) complete, with the assistance of the Personnel Department, a profile of the current full time permanent work force to include racial identification, sex, and job classification of each employee. This profile shall be completed and submitted to the City Manager annually after adoption of this Plan.

(d) forecast the projected rate of hiring for each of the coming five (5) years and specify by numbers and by percentages what job vacancies will occur in each classification in the department or agency, and submit each list annually to the Personnel Department.

(e) maintain ongoing records for a period of five years of the job applied for, racial identification and sex of all applicants referred by means of eligibility lists from the City Personnel

Department and those eventually hired for those listed positions. Such records shall include interview records.

(f) maintain ongoing records for a period of five years of all losses to the work force and reasons for the loss.

(g) complete this report quarterly, specifying the current standing of all aspects of their work force by job classification, racial identification and sex.

(3) Assist the City Personnel Department, as appropriate and needed, to advertise job opportunities and to recruit eligible persons in order to meet and/or exceed the goals of this Plan.

(4) Submit with each quarterly Employment Status Report a detailed documentation of steps taken to meet goals for its departmental or agency work force if the current work force fails to meet or exceed the above-stated goals for the employment of minority persons and women. Any City department and agency whose work force meets and/or exceeds the City goals for employment of minority persons and women shall be required only to submit such documentation on an annual basis.

e. City Personnel Department Responsibilities

In addition to the responsibilities stated under Personnel Director, the Personnel Department shall:

(1) Conduct an ongoing and extensive recruiting and counseling program throughout the City and in other areas as appropriate, with particular emphasis on the minority community, residents, women, and disabled persons.

(2) Request assistance in the recruitment effort from other City Departments and agencies as needed, the State Employment Development Department, other local, state or federal employment referral agencies, neighborhood and community organizations, churches, schools, minority civic organizations, local and minority newspapers and radio television stations, and minority training and recruiting organizations.

(3) Undertake a thorough review of the existing personnel procedures and practices with the objective of eliminating any impediments to the achievement of the goals of this Plan.

(4) Work with each City department and agency to examine opportunities for the upgrading and promotion of employees, and shall to the maximum feasible extent, provide lateral entry and promotional advantages to minority, female, and disabled employees.

(5) Update on an biannual basis, the Work Force Utilization Analysis.

f. Personnel Board Responsibilities

The Personnel Board shall have power, and it shall be its duty, to:

(1) Hear any employee in the Classified Service, upon his/her request, who has been demoted, suspended, dismissed, or reduced in pay.

(2) Advise the City Manager on all matters of policy regarding the administration of this Plan and of the personnel system in general.

(3) Review, together with duly authorized employee representation and in a public hearing, all changes, additions or deletions in the Personnel Rules, and to forward a recommendation to the City Council.

(4) Entertain appeals on any matter by any aggrieved employee or by the City.

(5) Review rules and ordinances, or changes thereto, which are submitted by the City Manager to the Personnel Board for review and recommendations.

CITY OF RICHMOND AFFIRMATIVE ACTION PLAN

APPENDIX VI-A

CITY WORK FORCE

COMPLAINT RESOLUTION PROCEDURE

I. EQUAL EMPLOYMENT INVESTIGATIVE OFFICER:

The Personnel Director, or his/her designee, shall be the City's Equal Employment Investigative Officer (EEIO).

II. PROCEDURE:

A. Complaints:

1. A complaint of discrimination on the basis of race, color, religion, national origin, ancestry, age, sex, disability or marital status may be initiated by an employee, former employee, or applicant for employment concerning an employment practice of the City. Complainants may represent themselves or select whom-ever they wish to represent them at the presentation of their complaint and throughout the investigative and resolution process.
 - a. A City employee may file a complaint and meet with the EEIO during regularly scheduled work hours.
 - b. Employees must immediately notify their supervisor when time off is requested in order to meet with the EEIO. This shall be for purposes of coordination between the work schedule or duties of the complainant and the operational demands of that department.
 - c. An employee who requests it shall be granted reasonable time off for this purpose.
 - d. Employees may not use the grievance procedure if they process a complaint through this Complaint Resolution Procedure.
2. Complaints must be brought to the attention of the EEIO within 30 calendar days of the alleged discriminatory act unless there are reasonable circumstances which justify late submission.
3. Upon receipt of complaints the EEIO shall make whatever inquiries of the complainant are necessary to establish if reasonable grounds exist to believe the complaint is true and within the authority of the EEIO.
4. If the EEIO determines that sufficient grounds do not exist to establish a basis for further investigation, or if the complaint does not fall within the authority of the EEIO, the complaint will be rejected. If a complaint is rejected, the EEIO

shall so notify the complainant and shall inform the complainant of any rights available to pursue the complaint through the appropriate State or Federal agencies.

5. If the EEIO determines that reasonable grounds exist to establish the possible truth of the complaint, and if the complaint falls within the authority of the EEIO, the EEIO must accept the complaint.

6. Insofar as is practicable, the EEIO shall maintain the confidentiality of the complainant.

B. Notice to City Manager and Department Head:

The City Manager and the appropriate department head will be notified in writing within five working days of receipt of the complaint. Such notice shall include the name of the complainant, and the date and circumstances of the alleged discriminatory employment practice.

C. Investigation:

1. The EEIO shall conduct a prompt investigation of the complaint, including a thorough review of the circumstances under which the alleged discriminatory act occurred, the treatment of the complainant as compared with the treatment of other employees in the organizational unit in which the alleged discriminatory act occurred, and any policies and practices, verbal or written, related to the work situation which may constitute or appear to constitute, discrimination because of race, color, religion, national origin, ancestry, sex, age, disability or marital status.

2. A complainant may withdraw a complaint at any time. In addition, the EEIO may cancel a complaint if the complainant is unavailable or if the complainant refuses to pursue the complaint. The EEIO will notify the complainant of this action in writing.

3. If at any time during the investigation, a complainant files similar charges with a State or Federal agency or files a lawsuit with similar allegations against the City in a State Federal court, the City Manager may cancel the complaint upon a recommendation from the EEIO.

D. Determination and Mediation:

1. "No Cause" Findings

a. If, following an investigation, the EEIO finds that there is not reasonable cause to believe that the complaint is true, the EEIO shall inform the City Manager of these findings.

b. If the City Manager concurs in the recommendation of the EEIO, the EEIO shall notify the complainant and the appropriate department head of the decision.

c. In the event of a "no cause" finding, the EEIO's findings and recommendations will be brought to a hearing before the Personnel Board, if the complainant makes such a request. The Board may entertain a request for a closed hearing. Both the appropriate department head and the complainant will have the opportunity to present such information or evidence as may be necessary to support their contentions.

(1) Based on the information presented at this hearing, the Board will make a recommendation to either accept, modify, or dismiss the EEIO's recommendations.

(2) In the event that a "no cause" recommendation is accepted by the Personnel Board, the EEIO shall notify the complainant of any rights to pursue the complaint through the appropriate State or Federal agencies.

(3) In the event that the Personnel Board does not agree with the "no cause" recommendation, such decision shall be sent to the City Manager with the reasons for such recommendation. The City Manager will make a final determination within 15 calendar days of the Board's recommendation. If the City Manager affirms the "no cause" finding, the EEIO shall notify the complainant as in (2) above.

2. "Cause" Findings

a. If, following an investigation, the EEIO finds that there is reasonable cause for a charge of discrimination, the EEIO shall discuss this finding with the City Manager.

b. If the City Manager concurs in the finding of the EEIO, the EEIO shall attempt to mediate the complaint to the mutual satisfaction of both the complainant and the appropriate department head.

c. The EEIO will submit any mediation agreement to the City Manager for review. If the City Manager concurs with the agreement and the actions required are within the administrative discretion of the City Manager, the City Manager will sign the agreement and it will be binding on the parties. If a mediation agreement requires action outside of the administrative discretion of the City Manager, the agreement will be brought before the appropriate body for approval.

d. If mediation is not possible, the complaint will be brought to a hearing before the Personnel Board. At that time the EEIO will present a summary of the investigation which enumerates the findings of fact and recommendations for appropriate remedies. Both the responsible department head (or designee) and the complainant will have the opportunity to present such information or evidence as may be necessary to support their contentions.

e. Based on the information presented at this hearing, the Board will make a recommendation to the City Manager to either accept, modify or dismiss the EEIO's recommendations.

f. The City Manager will have 15 calendar days in which to make a final determination of the matter.

g. The EEIO shall notify the complainant of the final determination. If the complainant accepts the results, the complainant shall sign signifying agreement. If the complainant does not accept the results, the EEIO shall notify the complainant of any rights to pursue the complaint through the appropriate State or Federal agencies.

E. Remedies:

1. Upon a finding of discrimination, the Board may recommend any of the following remedies and the City Manager may order:

- a. reinstatement of an employee who has been terminated;
- b. an appointing authority to hire an applicant for employment;
- c. payment of wages that have been lost or some portion thereof;
- d. retroactive seniority credits;
- e. placement of the complainant in Rank A of an eligibility list;
- f. an appointing authority to correct any discriminatory employment practice; or
- g. any other remedies deemed appropriate.

2. In cases where the City Manager makes a determination that an employment practice was discriminatory and orders that practice to be corrected, the EEIO will conduct periodic compliance reviews to ensure that corrective action has been taken.

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